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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,929	11/09/2000	John Reipur	459-479P	2561

2292 7590 02/12/2002

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EXAMINER
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MORRIS, LESLEY D

ART UNIT	PAPER NUMBER
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3752

DATE MAILED: 02/12/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/646,929

Applicant(s)

REIPUR, JOHN

Examiner

Lesley D Morris

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

I. The IDS filed September 25, 2000 and the pre-liminary amendment filed November 9, 2000 are hereby acknowledged and have been placed of record. Please find attached a signed and initialed copy of the PTO-1449.

#### ***Drawings***

II. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the details of the piston compressor and the electric motor as claimed in claims 1, 2, 8, 15, 18, and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

#### ***Specification***

III. The disclosure is objected to because of the following informalities: An abstract is needed on a separate sheet of paper. On page 4, lines 31-33, mention is made of a Danish application but an application or publication number is not provided. On page 5, line 18, the second occurrence of "the" should be deleted.

Appropriate correction is required.

#### ***Claim Objections***

IV. Claims 1, 5, 6, 7, 9-15, and 20 are objected to because of the following informalities: In claim 1, the third occurrence of "a" should be --an--. In claim 5, line 1, the word "part" should be deleted for terminology consistency. In claim 6, line 6, the article --the-- should be inserted

before “tubular”. In claim 7, line 1, the word --first-- should replace “free” for terminology consistency. In claim 9, line 2, the word --part-- should be inserted after “end” for terminology consistency. In claim 10, line 3, the word --first-- should be inserted after “open” and --part-- should be inserted after “end” for terminology consistency. In claim 11, line 1, --open-- should be inserted before “first” for terminology consistency. In claim 12, line 2, --open-- should be inserted before “first” for terminology consistency. In claim 13, line 1, the word should be “comprises”. In claim 13, line 2, --part-- should be inserted after “wall” and --open-- should be inserted before “first” for terminology consistency. In claim 13, line 4, --open-- should be inserted before “first” for terminology consistency. In claim 14, lines 2 and 3, --open-- should be inserted before “first” for terminology consistency. In claim 15, line 3, --open-- should be inserted before “first” for terminology consistency. In claim 20, line 2, the word should be --member--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

V. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 8-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 utilizes the language “of the type used by” which is not considered to be definitive as to what is being claimed. The claims should specifically describe the instant invention. Claim 8 utilizes the means + function language “means for switching”. However, dependent claims 9, 13 and 15 all use “switching means”. Such language is not considered to be proper means + function

language. The dependent claims should also use "means for switching". Claim 10 utilizes the term "manually operateable means being provided for selectively closing" as an attempt at means + function language. However, this language is not exactly means + function. Claim 12 utilizes "manually operateably closing means" and claim 13 utilizes "manually operated closing means". This language is also not proper means + function language. Claim 15 utilizes "the liquid delivery means" as means + function language; however, this is not proper. The term should refer back in an accurate manner to the structural representation in claim 14. There is no antecedent basis for the term "the open end" in claim 16. Besides, should the liquid delivery tube have two open ends? There is no antecedent basis for the term "said pistons" in claim 19. Claim 21 includes a double inclusion of an element already claimed. Specifically, it has already been established that the tubular member has opposite ends. Therefore, the claim should merely be stated to further limit the ends to being open and adapted to receive the shaft ends.

*Claim Rejections - 35 USC § 103*

VI. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lohn 4,944,675 in view of Milam 5,551,845. The dental handpiece of Lohn makes no mention at all of the sources for the gas and liquid and microswitches placed on the handpiece for controlling such sources. The device of Milam is drawn to a specific type of a piston

compressor and associated electric motor that is stated as usable for supplying air/gas in dental applications. Again no mention is made of a microswitch for controlling this electric motor. As for the use of microswitches for controlling the sources, i.e. motors, it is well known and common to place such microswitches on hand held sprayers for operating remotely located pumps and motors for ease of control and maneuverability. Therefore, it would have been obvious at the time of the invention to have used as the gas/air source the piston compressor and associated motor since such is known as performing well for dental applications, as taught by Milam '845, and to have included microswitches on the handpiece to control the motor for both the gas and liquid since the use of such switches on hand held sprayers is well known and common for ease of control and maneuverability.

***Allowable Subject Matter***

**VII.** Claims 19-23 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

**VIII.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Held, Strohmaier et al., Fernwood et al., Davis et al. all show dental handpieces with at least a control valve for one of the gas and liquid.

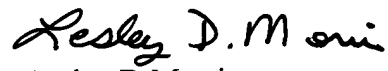
**IX.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lesley D Morris whose telephone number is (703) 308 0629.

The examiner can normally be reached on Monday-Thursday (7:30-4:30), alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Doerrler can be reached on (703) 308 0696. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9302 for regular communications and (703) 872 9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0861.



Lesley D Morris  
Primary Examiner  
Art Unit 3752

LDM  
February 7, 2002

Attachment for PTO-948 (Rev. 03/01, or earlier)  
6/18/01

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a)

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.